

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and the Chapter 7 Estate of
Bernard L. Madoff,

Plaintiff,

v.

FRANK J. AVELLINO, *et al.*,

Defendants.

Adv. Pro. No. 10-05421 (CGM)

**STIPULATION AND ORDER FOR DISMISSAL OF DEFENDANTS
RACHEL A. ROSENTHAL, RACHEL ANNE ROSENTHAL TRUST U/A
DATED JUNE 29, 1990, AND RACHEL ANNE ROSENTHAL TRUST #3
FROM ADVERSARY PROCEEDING WITHOUT PREJUDICE**

WHEREAS, on December 10, 2010, Irving H. Picard, as trustee (the “Trustee”) for the liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the substantively consolidated chapter 7 estate

of Bernard L. Madoff commenced this adversary proceeding (the “Adversary Proceeding”) against Defendants Rachel A. Rosenthal a/k/a Rachel Liersch, Rachel Anne Rosenthal Trust U/A dated June 29, 1990, and Rachel Anne Rosenthal Trust #3 (upon information and belief, also known as the Rachel Anne Rosenthal Trust Number 2 U/A dated June 24, 1992) (collectively, “Defendants”), as well as other defendants, by filing his Complaint (ECF No. 1).

WHEREAS, on November 24, 2014, the Trustee filed his Amended Complaint against Defendants and other defendants (collectively, the “Avellino Defendants”) (ECF No. 86).

WHEREAS, on January 28, 2015, the Avellino Defendants, including Defendants, filed a motion to dismiss the Amended Complaint (the “Motion to Dismiss”) (ECF No. 88).

WHEREAS, on August 5, 2016, the Court issued an Order granting in part and denying in part the Avellino Defendants’ Motion to Dismiss (ECF No. 117).

WHEREAS, on November 2, 2016, Defendants filed an Answer to the Amended Complaint (ECF No. 139, 143).

WHEREAS, on August 23, 2022, the Court entered its order granting the Trustee’s motion for partial summary judgment (ECF No. 279).

WHEREAS, Defendants and the Trustee have engaged in extensive settlement discussions.

WHEREAS, Defendants and the Trustee have reached a compromise and resolution of their disputes without any admission of liability, alleged wrongdoing or any issue of fact or law.

IT IS HEREBY agreed and stipulated between the Trustee and Defendants (together, the “Parties”), through their respective counsel, as follows:

1. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 (Case No. 08-01789, Dkt. No. 3181), the Parties entered into a Settlement Agreement

and Release, dated December 22, 2023 (the “Settlement Agreement”), the terms of which are confidential.

2. Pursuant to the terms of the Settlement Agreement, and in accordance with Federal Rule of Bankruptcy Procedure 7041 and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to dismiss the Trustee’s claims against Defendants in the above-captioned adversary proceeding, to resolve all Defendants’ customer claims against the BLMIS estate, and to dismiss the adversary proceeding against Defendants without prejudice and without costs.

3. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

4. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed DocuSign, facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

5. The Bankruptcy Court shall retain jurisdiction over this stipulation.

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6. Upon the dismissal of Defendants, the caption of the Adversary Proceeding is hereby amended to delete Defendants from the caption. The amended caption shall appear as indicated in Exhibit A to this Stipulation.

Date: December 26, 2023
New York, New York

/s/ Esterina Giuliani
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Attorney for Defendants

SO ORDERED.

**Dated: December 28, 2023
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**